IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

APPEAL FROM ORDER NO.828 OF 2004

Ashok Shamumal Wadhwa)..Appellant

Versus

Naresh Shrichand Raghani and others)..Respondents

Mr.S.V.Palsuledesai for the Appellant.

Mr.G.S.Godbole i/b.Mr.P.R.Arjunwadkar for Respondent No.1.

Mr.S.M.Kamble for Respondent No.3.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 6TH DECEMBER 2004

P.C.:

. This Appeal From Order has been filed against the order of the trial Court refusing the application for temporary injunction. The Appellant claims that he had a right to purchase an open plot opposite tenement bearing Nos.7, 8 and 9. The Appellant seeks to rely on the Government Circular dated 27th April 1973 to contend that he is entitled for the plot of land. It appears that the Respondents had commenced construction on this plot of land and the building is almost complete. The trial Court has considered the fact that the Deed of Conveyance in respect of the land has been assigned in favour of the Respondents which has been challenged by the Appellant

before the Settlement Commissioner. The trial Court has also considered the balance of convenience and found that the construction of the suit building does not hinder the access of the Plaintiff to the main road since he already has an access to a 15 feet wide road which leads to the main road. In view of these factors, I do not see any reason to interfere. Hence, dismissed.

4. In view of the Appeal From Order being disposed of, nothing survives in Civil Application No.1131 of 2004 and the same is disposed of accordingly.